IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.4370 OF 2006

Shri.Amit Suresh Kulkarni .. Applicant.

V/s.

State of Maharashtra .. Respondent.

M/s.J.Shekhar & Co. for the applicant.

Shri.M.S.Mhambre, A.P.P. for the applicant.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 18TH DECEMBER, 2006

P.C.:

. Heard Shri.Shekhar, learned counsel for the applicant. I have perused the application and annexures thereto. The applicant had applied for bail before me and on 23rd August, 2006 and I had permitted to withdraw that bail application with liberty to approach the trial court afresh for bail. The trial court had rejected the applicant's application on 3rd April, 2004. Subsequently, co-accused Deepak alias Baba Dondiba Misal and one

Prashant Bhosale have been enlarged on bail by this court on 11th Feb. 2005 and in case of Prashant Bhosale, the order is of 13th June, 2005.

. The trial court has considered the application for bail made afresh and has rejected it once again by observing that the case of the applicant is not on par with that of co-accused Prashant Bhosale or Sambhaji Pote. These applicants have been enlarged on bail in the facts peculiar to them.

. As far as the present applicant is concerned, the case appears to be par with Manoj Sharma - co-accused. The said Manoj Sharma has been denied bail by this court. Learned A.P.P. for State invites my attention to the chart annexed at page 41 of this application. It appears that the recoveries at the instance of the accused Amit appear to be more or less identical with that of co-accused Manoj. The trial court has observed that on account of specific allegations and recoveries at the instance of the present applicant and the offence alleged being grave and serious in nature, bail cannot be granted to him.

. The learned counsel for the applicant would like me to go into the issue of applicability of "M.C.O.C." Act and the sanction order passed in that behalf. However, such a plea was neither raised before the trial court nor before me during the course of the hearing of the earlier application. It would not be permissible for the applicant to now urge these pleas for the first time. That apart, assuming "M.C.O.C." Act cannot be applied, yet, the applicant is accused of commission of serious offences. The assault had taken place on the deceased by sharp edged weapons. There are recoveries at the instance of the present applicant. The reasons assigned by the learned trial Judge do not appear to be in any way erroneous. The discretion is rightly not exercised in favour of the present applicant.

. In these circumstances, there is no merit in this application and it is accordingly dismissed.

(S.C.Dharmadhikari, J.)